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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

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13
14 UNITED STATES OF AMERICA,)
15)
16 Plaintiff,)
17)
18 v.) 3:10-cr-109-RCJ-WGC
19)
20 JOSE GUADALUPE ROJAS-GUZMAN,)
21)
22 Defendant.)
23 _____)
24

25 **JOINT STIPULATION FOR A SENTENCE REDUCTION**
26 **PURSUANT TO 18 U.S.C. § 3582(c)(2)**
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29 The United States of America, by Assistant United States Attorney
30 Elizabeth O. White, and Defendant Jose Guadalupe Rojas-Guzman, by
31 Assistant Federal Public Defender Nisha Brooks-Whittington, submit the
32 following Joint Stipulation for Discretionary Relief pursuant to 18 U.S.C.
33 § 3582(c)(2).

1 The parties agree and stipulate to the following:

2 **A. Material Facts in Support of Joint Stipulation**

3 Defendant was previously convicted and sentenced for offenses
4 involving controlled substances.

5 On July 30, 2012, this Court sentenced Defendant to 264 months'
6 imprisonment for conspiracy to possess with intent to distribute and to
7 distribute a controlled substance in violation of 21 U.S.C. §§ 841(a)(1),
8 (b)(1)(A), and 846 (Count 1); distribution of a controlled substance in
9 violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) (Count 2); and possession with
10 intent to distribute a controlled substance in violation of 21 U.S.C.
11 §§ 841(a)(1), (b)(1)(A) (Count 3). CR 185. This Court previously found: (a)
12 that Defendant's total offense level was 38; (2) that Defendant's criminal
13 history category was I; and (c) that the guidelines sentencing range was
14 240-293 months' imprisonment. This Court imposed sentence near the
15 middle of the advisory guidelines range.

16 Following imposition of sentence, the U.S. Sentencing Commission
17 promulgated Amendment 782, which took effect on November 1, 2014.

18 Amendment 782 (a) reduces the guidelines offense levels across all drug

1 types, and (b) with certain limitations, applies retroactively to defendants
2 sentenced prior to November 1, 2014.

3 Defendant seeks a discretionary reduction in sentence pursuant to
4 Amendment 782, and in accordance with 18 U.S.C. § 3582(c)(2) which
5 (among other things) provides that, in certain circumstances, a sentencing
6 court “may reduce the term of imprisonment.”

7 **B. Terms of Sentence Reduction Under 18 U.S.C. § 3582(c)(2)**

8 Defendant is eligible for a discretionary reduction to the guideline
9 imprisonment range, and the parties agree that a reduction is appropriate.
10 Pursuant to 18 U.S.C. § 3582(c)(2) and Guidelines Amendment 782: (a)
11 Defendant’s revised total offense level is 36; (b) Defendant’s criminal
12 history category remains I; and (c), the revised advisory guidelines
13 sentence, by virtue of the statutory mandatory minimum sentence, is 240
14 months’ imprisonment. Based on the foregoing, the parties jointly
15 recommend that Defendant’s sentence be reduced to 240 months’
16 imprisonment, the guidelines sentence and the statutory minimum
17 sentence for the offenses of conviction.

1 **C. Waivers; Review and Consent of Defendant**

2 Defendant knowingly and voluntarily waives any right to appeal any
3 aspect of the revised sentence, *except that*, if the revised sentence exceeds
4 the recommended term of 240 months, Defendant may appeal that aspect
5 of the revised sentence. *See* Declaration, attached as Exhibit 1.

6 Defendant (a) waives any right he may have to a hearing on his
7 motion under 18 U.S.C. § 3582(c)(2); (b) waives any right he may have to
8 attend such a hearing; (c) has reviewed this stipulation with defense
9 counsel; and (d) agrees with and consents to this stipulation. *See*
10 Declaration, attached as Exhibit 1.

11 **D. Acknowledgment of Reserved Rights**

12 Notwithstanding this Joint Stipulation, the United States expressly
13 preserves and does not waive its contentions that a defendant seeking
14 relief under 18 U.S.C. § 3582(c)(2) has no constitutional or statutory right
15 to counsel, to a hearing on the motion, or to be present at any hearing on
16 the motion.

17 **E. Conclusion**

18 Based on the above, the parties respectfully request that the Court
19 enter an order granting Defendant a sentence reduction pursuant to 18

1 U.S.C. § 3582(c)(2), and reducing his sentence to 240 months'
2 imprisonment; with all other provisions of the amended judgment dated
3 September 4, 2012, to remain in effect.¹

4 Respectfully submitted this 22d day of January 2016.

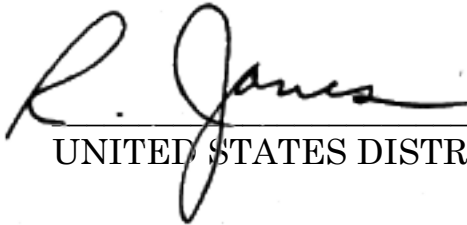
5
6 RENE L. VALLADARES
7 Federal Public Defender

DANIEL G. BOGDEN
United States Attorney

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9 By: s/ Nisha Brooks-Whittington
10 Nisha Brooks-Whittington
11 Asst. Federal Public Defender
12 *Counsel for Defendant*
13 *Jose Guadalupe Rojas-Guzman*

By: s/ Elizabeth O. White
Elizabeth O. White
Appellate Chief and
Assistant United States Attorney

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16 IT IS SO ORDERED this 27th day of January, 2016.

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UNITED STATES DISTRICT JUDGE

¹ The parties make this joint recommendation after having reviewed the Defendant's progress reports from the Bureau of Prisons, along with other relevant records. If the Court is inclined to deny the jointly recommended sentence reduction, the parties respectfully requests an opportunity to provide those records for the Court's review, and make additional argument in support of the joint stipulation.

Exhibit 1

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
-oOo-

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) 3:10-cr-109-RCJ-WGC
)
JOSE GUADALUPE ROJAS-GUZMAN,)
)
Defendant.)
_____)

DECLARATION IN SUPPORT OF
JOINT STIPULATION UNDER 18 U.S.C. § 3582(c)(2)

1. I, Jose Guadalupe Rojas-Guzman, am the Defendant in the above-captioned case and the movant seeking relief in a pending motion under 18 U.S.C. § 3582(c)(2).
2. I have read and discussed with my attorney, Nisha Brooks-Whittington, the "Joint Stipulation for a Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)" (the "Joint Stipulation") to be filed in this case.
3. I agree with and consent to the Joint Stipulation.
4. My attorney has explained my appellate rights to me. I hereby knowingly and voluntarily waive the right to appeal any aspect of the revised sentence imposed by the Court under the terms of the Joint Stipulation, *except that*, if the revised sentence exceeds the recommended term of 240 months' imprisonment, I may appeal that aspect of the revised sentence.
5. I hereby waive any right I may have to a hearing on my pending motion for discretionary relief under 18 U.S.C. § 3582(c)(2), or to attend such a hearing.

DATED this 24 day of December, 2011.



Jose Guadalupe Rojas-Guzman